UNITED
NATIONS

A

General Assembly

Distr.
GENERAL

A/AC.105/C.2/SR.573
28 March 1994

ORIGINAL: ENGLISH

COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-third session

SUMMARY RECORD OF THE 573rd MEETING

Held at the Vienna International Centre, Vienna,
on Tuesday, 22 March 1994, at 10 a.m.

Chairman: Mr. MIKULKA (Czech Republic)

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The meeting was called to order at 10.10 a.m.

PARTICIPATION BY NON-MEMBER STATES

1. The CHAIRMAN said that Nicaragua had submitted a request to attend the session as an observer. The granting of observer status was a matter for the Committee on the Peaceful Uses of Outer Space. However, he proposed that in accordance with the Subcommittee's previous practice, Nicaragua should be enabled to attend the formal meetings of the Subcommittee.

2. It was so decided.

GENERAL EXCHANGE OF VIEWS (continued)

3. Mr. HALFF (Netherlands) recalled that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space had finally been agreed upon two years previously, after a long and tedious negotiating process. It was important now to render them effective in practice. They were, perhaps, capable of improvement, and he would not object to a revision, provided that it was necessary in the light of technological developments. If at any future time the Principles no longer matched the state of technology, it would be for the Subcommittee to adapt them to the new developments identified by the Scientific and Technical Subcommittee.

4. With regard to the definition and delimitation of outer space, it still needed to be decided whether there was a need for a specific legal regime for aerospace objects. As to the question of equitable access to and use of the geostationary orbit, the International Telecommunication Union (ITU) had already shown itself capable of dealing with the issues involved. His delegation would prefer to leave it to ITU to develop new rules if the need arose.

5. Turning to the legal aspects related to the application of the principle that the exploration and utilization of outer space should benefit all States, taking into particular account the needs of developing countries, he observed that the Netherlands had always advocated cooperation with developing countries in respect of the use of space technology and its application in developing countries. His country welcomed the efforts now being made by the European Space Agency and the European Union to identify ways of contributing in that field. Such cooperation could well take place in the area of Earth observation and remote sensing. The Netherlands would urge the developing countries to step up their cooperation with other international organizations, such as the Food and Agriculture Organization, the World Meteorological Organization and the European Organization for the Exploitation of Meteorological Satellites (EUMETSAT), in that area.

6. Mr. AVRAMENKO (Russian Federation) said that the Russian Federation attached great importance to international cooperation in the peaceful uses of outer space. The radical changes taking place in his country were requiring adjustments and changes throughout the space sector, and prestige projects were being subjected to stringent new requirements. However, the reforms were also opening up new prospects for partnership and cooperation in space, both nationally and internationally. Space activities in the Russian Federation were increasingly geared to the economic advantages to be gained. Legal

regulation was also making rapid strides, the starting point being the 1993 law on space activities. The adoption of an appropriately balanced development model for the space sector in Russia was no easy matter, but once the model was in place it would unleash the dynamic potential of the sector, and would enhance the prospects for international cooperation.

7. The peaceful uses of outer space depended, increasingly, on striking a proper balance among national interests. It was noteworthy that a number of countries had opted to work in partnership to relaunch the project for an international orbital station, an important element in the design and infrastructure of a future orbital complex. There were good prospects for regenerating the cooperative arrangements which had formerly existed between Russia and a number of East European and other countries in the Intercosmos programme, and for developing cooperation with other States, such as the member States of the European Space Agency, and China, India and Japan. Such cooperation helped to enrich existing traditions and to overcome narrow, selfish attitudes.

8. Observing that the international space market was an open market, he wondered how cooperation was best to be achieved, in view of the industrial character of space ventures. Cooperation in the various aspects of space activities was a complex process which did not fit readily into preconceived models. His delegation would do its utmost to foster creative collaboration among States in developing the institutional framework for cooperation, and in improving the effectiveness of new programmes and agreements.

9. Mr. AYEWAH (Nigeria) said that, in a changing international system, the work of the Subcommittee had become particularly relevant. His delegation welcomed the progress made during the Subcommittee's thirty-second session, especially on the proposed principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes. Good work had also been done in the discussions on the legal aspects of the application of the principle that the exploration and utilization of outer space should be carried out for the benefit and in the interests of all States, taking into particular account the needs of the developing countries. In the formulation of principles to govern the conduct of States in the exploration and use of outer space, it should be borne in mind that global peace and security could best be assured by taking account of the developmental and other special needs of developing countries without space capabilities.

10. Responsibility for sharing space technology should not be viewed as imposing undue obligations on any State, but rather as a recognition of the value of interdependence among economies and of the utility of international cooperation in outer space. Legal principles relating to equity in outer space should recognize the need to develop indigenous space capabilities, especially in developing countries, by ensuring access to space resources and technology and the widest possible dissemination of the resulting benefits.

11. The use of the geostationary orbit must be seen to be judicious and equitable, taking into account the special needs of developing countries. Those countries must not be deprived of access to the orbit simply because they did not possess the requisite technology or resources to exploit it to advantage. His delegation agreed with the suggestion that developing

countries should enjoy preferential rights of access to suitable orbital positions and frequencies on the geostationary orbit. The boundary between airspace and outer space must be legally defined in order to cover the operations of space objects, especially those that had a dual purpose or were powered by nuclear sources. A legal regime was also needed to deal with space debris - its definition, jurisdiction and control - as well as State liability for any damage caused.

12. The role of the International Telecommunication Union (ITU) in the management and allocation of radio frequencies was acknowledged: the Subcommittee should cooperate with ITU in developing legal principles ensuring equity, access and efficiency. Those norms of positive law were already enshrined in the ITU instruments regulating the use of the geostationary orbit as a limited natural resource.

13. It was regrettable that, although the 1967 Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies, did recognize that outer space should benefit all, a handful of States with the relevant space capabilities had actually enjoyed most of the resulting advantages. International standards should be devised to ensure the widest possible access to space resources and technology. The development of a legal framework to facilitate and guarantee international cooperation and interdependence should eradicate inequalities in the enjoyment of the benefits of outer space.

14. As to the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, he favoured strict legislation to safeguard both outer space and the Earth environment, bearing in mind the hazards involved in using nuclear power sources in outer space, and the possibility of public exposure to radiation in the event of accidents. Following the adoption of General Assembly resolution 47/68, the Subcommittee should now focus on strengthening the Principles in the light of experience gained from their implementation and against the backdrop of rapid advances in space technology. It should begin to think about the possible revision of the Principles, without seeking to undermine the regime established.

15. Mr. HE QIZHI (China) said that the Committee on the Peaceful Uses of Outer Space and its Legal Subcommittee had, through the joint efforts of participating countries, achieved noteworthy results, including a fairly comprehensive system of space law that constituted the main legal basis for guiding the space activities of countries, reducing space conflicts and promoting the peaceful uses of outer space for the benefit of mankind. However, coordination was still needed on certain issues and in some areas big differences still existed.

16. His delegation considered that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space contained a series of substantive provisions that were essential for the establishment of a legal system governing the use of nuclear power sources in outer space. The use of nuclear power sources in outer space offered great advantages but also involved enormous risks in the event of accident. Stringent principles had therefore to be laid down: such power sources should be used only for space missions that could not reasonably be powered by non-nuclear energy sources, they should not be used for military purposes, and care should be taken to protect the Earth environment and ensure the safety of human beings. The Principles

had brought great benefits and would not need to be revised unless rigorous scientific evidence proved that that was necessary. They should be taken as guidelines and implemented effectively.

17. Regarding the definition and delimitation of outer space, efforts had been made to break the impasse, but many difficulties remained. The draft questionnaire on aerospace objects circulated by the Chairman of the Working Group on the Definition of Outer Space and the Utilization of the Geostationary Orbit at the previous session might facilitate progress. His delegation would give it careful attention; the concept of aerospace objects had an important bearing on the discussions and the conclusions to be drawn.

18. With regard to the geostationary orbit, which was a limited natural resource, full account should be taken of the interests of all parties, particularly developing countries, and the discussions should be coordinated with ITU in order to contribute to a rational solution. The discussion at the previous session on working paper A/AC.105/C.2/L.192 had been very useful.

19. On the question of the benefits of outer space, working paper A/AC.105/C.2/L.182/Rev.1 submitted at the previous session on principles regarding international cooperation in the exploration and utilization of outer space for peaceful purposes had provided a good basis for discussion, and China hoped that further progress would be made. A wide range of topics was covered and serious discussion of the subject was of great importance.

20. China also considered the elaboration of international space law within the United Nations system to be very important. In its view, the exploration of space resources, the conduct of space activities and the use of outer space for peaceful purposes needed to be guaranteed by space law. Recent changes in the international situation should help the establishment of an international legal regime and the promotion of international cooperation. The Legal Subcommittee should seize the opportunity to strengthen the legal system pertaining to space.

21. Mr. RIANOM (Indonesia) said that the geostationary orbit was of major concern to developing countries trying to achieve national development objectives. It was the Subcommittee's task to establish a legal framework aimed in particular at the definition and delimitation of outer space to serve the interests and needs of all countries. His delegation welcomed the progress made so far. The working paper submitted at the previous session by a number of countries of the Group of 77 (A/AC.105/C.2/L.182/Rev.1) had provided a useful basis for constructive debate. Continued efforts to devise a viable legal framework would strengthen international cooperation, narrow the gap between space law and technological developments, and remove ambiguities in the present system. He noted that the Committee had agreed that the Principles Relevant to the Use of Nuclear Power Sources in Outer Space, adopted by the United Nations General Assembly, should be implemented and also reviewed in the light of new developments in technology. The use of nuclear power sources in outer space, especially in regard to problems of launching and re-entry, needed to be monitored and controlled. Urgent attention should be paid to studying the development and use of nuclear power sources and to research on their possible negative effects on people, property and the environment, with a view to deciding on future measures. It was his delegation's ardent desire that the present session should produce concrete results for the benefit of all nations.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (continued) (A/AC.105/404, 544 and 571; A/48/20)

22. Mr. REY CORDOBA (Colombia) said that the working paper submitted by the Colombian delegation, in consultation with other interested delegations, at the previous session of the Subcommittee, and reproduced in annex IV to the Subcommittee's report (A/AC.105/544), sought to address various aspects of the subject that might serve as starting points for a future set of rules regarding the geostationary orbit. There had been many favourable reactions to the paper, which would, he thought, help to facilitate progress on a subject concerning which negotiations had been bogged down for many years.

23. It was sometimes suggested that the issue of the geostationary orbit should be managed exclusively by ITU. His country disagreed with that view. The General Assembly had requested the Subcommittee to consider matters "relating to the definition and delimitation of outer space and to the character and utilization of the geostationary orbit, including consideration of ways and means to ensure the rational and equitable use of the geostationary orbit without prejudice to the role of the International Telecommunication Union" (see General Assembly resolution 47/67, operative paragraph 4 (b)). In other words, the General Assembly had asked that the subject should be considered bearing in mind the role of ITU, but it had not entrusted the subject to ITU as such. The distinction was very important. Though ITU could not be disregarded, its role was limited to telecommunications. In Colombia's view, the question of the geostationary orbit was a broader issue. The Subcommittee's mandate was clear and should not be misinterpreted. Nor could his country agree with the argument that ITU had already tackled and almost resolved problems concerning the management of the geostationary orbit. In regard to the planning of telecommunications services by ITU, it was well known that not even 40 per cent of the frequency bands had been covered. The Legal Subcommittee should discharge its mandate but do so in coordination with ITU.

24. His delegation's working paper took up and developed principles set forth in the international telecommunication treaties, including article 33 of the Nairobi International Telecommunication Convention. It took into account the acknowledged fact that the geostationary orbit was a limited natural resource.

25. Another problem which his country's working paper sought to resolve was the question of equitable access to the geostationary orbit and frequencies for various countries and groups of countries since it was well known that access to the orbit had not been in the past and was still not equitable. In his view, equitable access could be achieved only by means of preferential rights for countries so far without access to the geostationary orbit. His country's paper sought to break the barrier of inequity by asking that the general principles of existing treaties and positive law be developed so as to promote effective implementation and ensure that all countries enjoyed equitable access to the geostationary orbit and frequencies.

26. He hoped that his statement would clarify his country's philosophy and facilitate the emergence of a common view. In regard to equitable access to the geostationary orbit, he hoped that the Working Group could at last achieve concrete results.

The meeting rose at 11.15 a.m.